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SENATE BILL 584

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Steve Komadina

AN ACT

RELATING TO LIABILITY; ENACTING THE VOLUNTEER IMMUNITY AND
CHARITABLE ORGANIZATION LIABILITY LIMIT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the
"Volunteer Immunity and Charitable Organization Liability Limit
Act".

Section 2. LEGISLATIVE FINDING AND DECLARATION OF
INTENT. -- The legislature finds that charitable organizations in
this state perform essential and needed services. It is the
intent of the legislature to encourage the formation of
charitable organizations, to promote charitable organizations,
to preserve the resources of charitable organizations, to
encourage volunteerism and to encourage volunteer and
charitable organizations by limiting the liability of

1 charitable organizations and volunteers.

2 Section 3. DEFINITIONS. -- For the purposes of the
3 Volunteer Immunity and Charitable Organization Liability Limit
4 Act:

5 A. "charitable organization" means an organization
6 exempt from federal income taxation by virtue of being
7 described under Section 501 (c) (3) of the Internal Revenue Code
8 of 1986;

9 B. "good faith" means the honest, conscientious
10 pursuit of activities and purposes that a charitable
11 organization is organized and operated to provide;

12 C. "government entity" means any department,
13 agency, institution or branch of the state or any political
14 subdivision of the state;

15 D. "health care" means any act performed or
16 furnished by a health care provider for, to or on behalf of a
17 patient pertaining to the diagnosis or treatment of any
18 physical or mental disease or disorder or any physical
19 handicap, deformity or injury;

20 E. "health care provider" means a person licensed,
21 certified or accredited by the state to provide health care or
22 an agent of the person acting in the course and scope of the
23 person's employment; and

24 F. "volunteer" means a person who renders service
25 for a charitable organization, nonprofit corporation, a

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underscored material = new
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1 hospital or a government entity without compensation other than
2 reimbursement for actual expenses incurred.

3 Section 4. VOLUNTEERS--IMMUNITY FROM CIVIL LIABILITY.--

4 A. Except as provided in Subsection B of this
5 section and Section 6 of the Volunteer Immunity and Charitable
6 Organization Liability Limit Act, a volunteer who is serving a
7 charitable organization in any capacity is immune from civil
8 liability for any act or omission resulting in death, damage or
9 injury if the volunteer was acting in good faith and in the
10 course and scope of the volunteer's duties or functions within
11 the organization.

12 B. A volunteer acting in good faith and in the
13 course and scope of the volunteer's duties or functions within
14 the charitable organization is not liable to a person for
15 death, damage or injury to the person or the person's property
16 proximately caused by an act or omission arising from the
17 operation or use of any motor-driven equipment, including an
18 airplane, except to the extent of any existing insurance
19 coverage applicable to the act or omission.

20 C. The provisions of this section apply only to
21 liability of volunteers and do not apply to the liability of
22 the organization for acts or omissions of volunteers.

23 Section 5. ORGANIZATION LIABILITY.--Except as provided in
24 Section 6 of the Volunteer Immunity and Charitable Organization
25 Liability Limit Act, in any civil action brought against a

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1 charitable organization based on an act or omission by the
2 organization or its members, recovery may be sought only in an
3 action against the charitable organization for actual damages
4 sustained in an amount not exceeding three hundred thousand
5 dollars (\$300,000) for each person and one million dollars
6 (\$1,000,000) for each single occurrence of bodily injury or
7 death and one hundred thousand dollars (\$100,000) for each
8 single act of destruction of property and one hundred thousand
9 dollars (\$100,000) for any other injury.

10 Section 6. SEVERABILITY.--If any part or application of
11 the Volunteer Immunity and Charitable Organization Liability
12 Limit Act is held invalid, the remainder or its application to
13 other situations or persons shall not be affected.

14 Section 7. APPLICABILITY.--

15 A. The Volunteer Immunity and Charitable
16 Organization Liability Limit Act does not apply to an act or
17 omission by a volunteer or a charitable organization that
18 constitutes intentional wrongdoing or that is done with
19 reckless disregard for the safety of others.

20 B. The Volunteer Immunity and Charitable
21 Organization Liability Limit Act does not limit or modify the
22 duties or liabilities of a member of the board of directors or
23 an officer to the charitable organization or its members and
24 shareholders.

25 C. The Volunteer Immunity and Charitable

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1 Organization Liability Limit Act does not apply to charitable
2 organizations or employees that are health care providers as
3 defined in Subsection E of Section 3 of that act.

4 D. The Volunteer Immunity and Charitable
5 Organization Liability Limit Act does not affect the powers and
6 duties of the attorney general with regard to the charitable
7 organizations and their directors and officers.

8 Section 8. EFFECTIVE DATE. --The effective date of
9 the provisions of this act is July 1, 2005.